



May 4, 1999

Ms. Tracy B. Calabrese
Senior Assistant City Attorney
City of Houston,
P.O. Box 1562
Houston, Texas 77251-1562

OR99-1213

Dear Ms. Calabrese:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 125907.

The City of Houston received a request for an offense report on the rape of a named individual. You seek to withhold the requested information under sections 552.101 and 552.108 of the Government Code.

Section 552.108(a)(1) excepts from required public disclosure

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if:

(1) release of the information would interfere with the detection, investigation, or prosecution of crime[.]

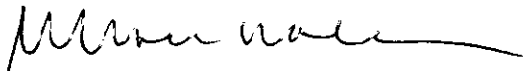
You advise that the case to which the requested report relates is still pending. Based on your representations we conclude that you may generally withhold the requested report under section 552.108(a)(1).

Section 552.108 does not, however, except from required public disclosure "basic information about an arrested person, an arrest, or a crime." Gov't Code § 552.108(c). *See Houston Chronicle Publishing Company v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). In this case, some of the "basic information" in the report must be withheld under common law privacy.

Section 552.101 protects "information considered to be confidential by law, either constitutional, statutory, or by judicial decision," including information coming within the common-law right to privacy. *Industrial Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). Common-law privacy protects information if it is highly intimate or embarrassing, such that its release would be highly objectionable to a reasonable person, *and* it is of no legitimate concern to the public. *Id.* at 683-85. Having reviewed the information at issue, we conclude that, under the law of common-law privacy, you must withhold from the "basic information" in the requested report: the victim's identity and description and the location of the crime. The remaining basic information must be released. *See* Open Records Decision No. 127 (1976) (listing "basic information").

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,



William Walker
Assistant Attorney General
Open Records Division

WMW/eaf

Ref.: ID# 125907

encl. Submitted documents

cc: Mr. Cam Cope
Cam Cope Consulting
12066 Clark Lane
Conroe, Texas 77385
(w/o enclosures)